

REMARKS

Claims 1-6 and 8-30 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,999,908 to Abelow. Claim 7 was rejected under 35 U.S.C. § 103(a) as being obvious over Abelow.

Claims 1-30 remain pending in the application.

The aforementioned rejections are respectfully traversed on the grounds that the cited reference neither discloses nor suggests the claims of the present invention. Reconsideration of the rejected claims in view of the following remarks is respectfully requested.

The Claimed Invention

As discussed in the Amendment filed on September 4, 2002 (in connection with the Continued Prosecution Application filed on October 9, 2002), one aspect of the claimed invention is directed to a computer implemented and user interactive method for providing greater software product functionality. In particular, claim 1 is directed to a method for using a computer system that initially utilizes a subset of software product functionality, and that collects data describing the user's interaction with the subset. The data is analyzed to determine whether at least one data pattern has been identified. Upon identifying at least one data pattern, the computer system initiates communication with a user with regard to the availability of product functionality not within the subset.

The present invention can be utilized, for example, in the context of a voice responsive telephone personal assistant system. In this embodiment, upon identifying at least one data pattern, the system communicates to the user an availability of system functionality that is not within the subset of system functionality initially provided.

As discussed at least on pages 9-10 of the specification, the present invention advantageously enables a portion of software and/or system functionality to be provided in an initial product offering. As user sophistication and/or needs increase, additional functionality can be

automatically provided by the system to the user. The system can initiate contact with the user to provide aspects of enhanced software or system functionality on an as-needed basis, thereby advantageously and optionally enabling the initial product offering to be made at a lower price.

The Claimed Invention Compared to U.S. Patent No. 5,999,908 to Abelow

One aspect of Abelow is directed to utilizing customer responses in connection with product development (see, e.g., col. 12, lines 35-42). Another aspect of Abelow is directed to accelerating future improvements in currently marketed products “by means of customer generated suggestions and insights.” (see, e.g., col. 12, lines 43-46).

In contrast to Abelow, the present invention does not concern or relate to obtaining customer input to improve product development of potential future products. Nor does the present invention concern or relate to obtaining customer input to accelerate future improvements in currently marketed products. Instead, at least one aspect of the present invention is directed to resolving the inherent conflict between a subscriber and a vendor in which, for example, the vendor wishes to sell a “fully loaded product,” and the subscriber is not willing and/or able to (initially) pay for such product (see, e.g., page 7, lines 7-20). In this regard, at least one aspect of the present invention is directed to a system and method for “brokering upgraded resources that provides greater software product functionality” (claim 1) of a presently existing product. Applicants respectfully submit that Abelow does not even recognize this problem (among others) solved by the present invention, and therefore does not teach or suggest, let alone disclose, a solution thereto.

More particularly, Abelow states that “this invention focuses on the competitive strategy of having companies work in a partnership with their customers to gain the greatest ability to concentrate their scarce resources on developing the products and markets that customers want most . . .” (col. 7, lines 59-65, emphasis added). The Abelow specification also states:

Simply put, this invention helps vendors and customers by transforming their learning cycle: It compresses the time and

steps between setting business objectives, **creating** effective products and services, and improving them continuously. It also alters their roles: **Customers become partners in the improvement process** along with vendors and distributors.

This invention's "Customer-Based Product Design Module" (CB-PD Module) generates numerous opportunities for improvements by **integrating customers and employees into the design and delivery of products and services as a continuous process.** (col. 8, lines 9-19, emphasis added).

[T]his invention may help change the cost, economics, methods and desirability of **involving customers in the design and evolution of products and services.** (col. 8, lines 34-37, emphasis added).

In the Office Action, the Examiner takes the position that "Abelow further teaches providing upgrades to the software based on consumer usages, patterns and demands. The upgrades are product functionality that can be perceived by the user or consumer and that is not within the subset when the at least one pattern has been identified. Note also columns 12-14 of Abelow." With this statement, the Examiner has not only misconstrued the teaching of Abelow, but also has failed to fully consider the features recited by, for example, claim 1 of the present invention.

The Examiner has thus attempted to construe Abelow as disclosing a method (and system) that provides to a user a software product that initially provides a subset of software product functionality, and that initiates communication with the user of an availability of product functionality that is not within the subset when at least one data pattern has been identified. Applicants have reviewed Abelow, and have particularly reviewed columns 12-14 cited by the Examiner, and do not find any suggestion or disclosure, of at least the aforementioned features recited in the claimed invention.

Column 12 (cited by the Examiner) discloses that a “CB-PD [consumer based – product development] Module can help track the testing of new and prototype products.” (col. 12, lines 35-42). Column 12 also discloses that in currently marketed products “the CB-PD Module can be used to accelerate future improvements in the product by means of customer generated suggestions.” Applicants discern nothing in column 12 of Abelow that teaches or suggests, let alone discloses, the claimed invention.

Columns 13 and 14 of Abelow (cited by the Examiner) discuss four possible impacts of the invention. However, Applicants have reviewed the four possible impacts discussed in columns 13 and 14 and, as noted above, do not find any teaching or suggestions of, for example, “providing a computer system that includes a software product that initially provides to the user a subset of software product functionality,” or “initiating, by the computer system, communication with the user of an availability of product functionality that can be perceived by the user and that is not within the subset when said at least one data pattern has been identified.” For example, col. 13, lines 36-58 discuss a third potential impact of changing “relationships between some vendors, customers and product users.” Applicants do not discern how this teaches or suggests, let alone discloses, Applicants’ claimed invention.

Applicants further note and acknowledge that col. 13 indicates that “point-of-use transactions” include the “ability for customers to buy additional products.” (emphasis added.) Applicants respectfully submit, however, that Abelow does not teach or suggest (explicitly or implicitly) that “additional products” include software product functionality that “is not within the subset” of initially provided software product functionality, as recited in claim 1. Instead, and upon further review of the specification, Applicants note that Abelow expressly discloses that “[c]ustomers may conduct transactions such as placing orders for additional products . . . or ordering other products in the Vendor’s product line.” (col. 41, lines 44-48, emphasis added). (emphasis added.) In this context, it is apparent that the phrase “additional products” indicates more of the same product, whereas the phrase “other products” would include products other than those presently utilized. In either case, Abelow does not teach or suggest either (let alone

both) of the above-discussed features recited in claim 1 of the present invention, particularly with regard to Applicants' recited "subset" feature.

In view of the foregoing, if the Examiner believes that Abelow teaches or suggests, much less discloses, the features of the claimed invention as discussed above, he is requested to expressly indicate in the next Office Action where in Abelow (by column and line number and/or Figure number) that these features are disclosed. As discussed in the previous paragraph, to the extent that Abelow, for example, provides any "additional products" to a user, such products are not from (a subset of) the original product. Accordingly, and for at least the reasons discussed, Applicants submit that claim 1, when interpreted as a whole, is patentably distinguishable over Abelow. Dependent claims 2-6, 8-10 and 28 are patentable by virtue of their dependency from claim 1, but also for the additional features they recite.

Independent claim 12 recites "providing a computer system that includes a personal assistant system software product that initially provides to the user a subset of software product functionality," and "initiating, by the personal assistant system, communication with the user of an availability of product functionality that is not within the subset when said at least one data pattern has been identified." For substantially the same reasons discussed above with regard to 1, Applicants submit that claim 12, when interpreted as a whole, is patentable over Abelow. Dependent claims 13-17 are patentable by virtue of their dependency from claim 12, but also for the additional features they recite.

Independent claim 18 recites the limitations discussed above with regard to claim 1. Accordingly, claim 18, and dependent claims 19-20 and 29, when interpreted as a whole, are patentable over Abelow.

Independent claim 21 recites "providing a voice responsive telephone personal assistant system that includes a software product that initially provides to the user a subset of software

product functionality.” In addition, claim 21 recites “initiating, by the voice responsive telephone personal assistant system, communication with the user of an availability of product functionality that can be audibly perceived by the user and that is not within the subset when said at least one threshold has been satisfied.” For substantially the same reasons discussed above with regard to 1, Applicants submit that claim 21, when interpreted as a whole, is patentable over Abelow. In addition, Applicants do not find any teaching in Abelow with regard to “an availability of product functionality that can be audibly perceived by the user.” For at least the reasons, Applicants submit that claim 21, and claim 30 which depends therefrom, when interpreted as a whole, are patentable over Abelow.

Independent claim 22 recites “means for initiating, by the apparatus, communication with a user of said product function an availability of said greater functionality ...”. Second, claim 22 recites “means for providing to a user a subset of functionality of a software product.” For at least these reasons, as similarly discussed with regard to claim 1, claim 22, and dependent claims 23 and 24, when interpreted as a whole, are patentable over Abelow.

Independent claim 25 is directed to a computer implemented apparatus for brokering upgraded resources for enabling greater functionality for a product function. Claim 25 recites “means for providing to a user a subset of functionality of a software product,” and “means for initiating, by the apparatus, communication with a user of product functionality that is not within the subset when said at least one threshold has been satisfied.” For at least these reasons, as similarly discussed with regard to claim 1, claim 25, and claims 26 and 27 which depend therefrom, when interpreted as a whole, are patentable over Abelow.

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The Rejection of Claim 7 Under 35 U.S.C. § 103(a)

Claim 7, which depends from claim 1, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Abelow. In view of the discussion above with regard to claim 1, Applicants submit that claim 7, when interpreted as a whole, is patentable over Abelow.

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Applicants again strongly emphasize that one reviewing the prosecution history should not interpret any of the examples Applicants have described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicants again assert that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, that is patentable. Applicants have again emphasized certain features in the claims as clearly not present in the cited reference, as discussed above. However, Applicants do not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicants are providing examples of why each of the claims described above are distinguishable over the cited prior art.

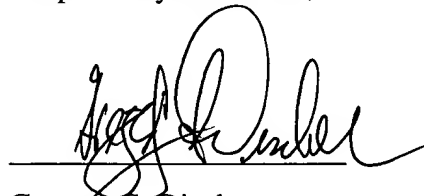
In view of the foregoing, Applicants respectfully request that claims 1-30 be passed to issue. If there are any matters that would delay this Application from passing to issue, the Examiner is requested, at his earliest convenience, to telephone the undersigned to resolve such matter(s).

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for this Amendment, or credit any overpayment to Deposit Account No. 08-0219.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to deposit account no. 08-0219.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory S. Discher", written over a horizontal line.

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